



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, Washington 98101

DEC 10 1990

Reply To
Attn Of: OAQ-107

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Michele Brown
Alaska Department of Environmental Conservation
410 Willoughby Avenue, Suite 105
Juneau, Alaska 99801-1795

Re: Proposed PSD Permit for Cominco Alaska, Inc.

Dear Ms. Brown:

This letter is in follow-up to our recent conversations regarding the Alaska Department of Environmental Conservation's (ADEC's) proposed prevention of significant deterioration (PSD) permit for Cominco Alaska Incorporated (Cominco). As we have discussed, it is EPA's assessment that the permit as currently drafted does not comply with the PSD provisions of the Clean Air Act (Act) or the Alaska State Implementation Plan (SIP). In spite of our concerns, I want to reiterate statements made in previous communications to you. First, EPA is committed to working with ADEC to resolve the best available control technology (BACT) issues related to this permit. Second, while ADEC retains the permitting authority over the PSD program in the State of Alaska, EPA retains federal oversight authority as part of its responsibility to ensure national consistency. Thus, EPA will continue to review nationally significant issues and will review a State permitting decision on a case-by-case basis when appropriate. Sections 113 and 167 of the Act provide EPA with the authority and responsibility to act in precisely this type of situation. Accordingly, the enclosed Finding and Order is issued under the authority of sections 113 and 167 of the Clean Air Act, 42 U.S.C. §§ 7413 and 7477.

It appears that there are two primary issues remaining in dispute: 1) emission limits for Wartsila generators MG-1, MG-3, and MG-4; and 2) the BACT determination for generators MG-5 and MG-17. I understand that ADEC and Cominco have agreed to permit conditions that would require low NOx controls on MG-1, MG-3, MG-4, and MG-5, and emission limits that reflect the previous "bubbled" limits. Under this approach, the permit would result in no increase in actual or allowable emissions from any of these engines and the installation of BACT would not be necessary for these four units. Assuming that the applicability of BACT determinations for MG-17 and other aspects of the production rate increase project will not be affected, this approach appears reasonable. Thus, if ADEC issues the PSD permit to Cominco with these provisions and others as discussed in the attached Order, the permit will comply with the Act and the Alaska SIP as it applies to these four generators, and Cominco may proceed with its production rate increase project in all aspects, except for new Wartsila generator MG-17.

COM 1-001

The remaining issue is the BACT determination for MG-17. As we have stated previously, EPA believes that ADEC's own analysis supports the determination that BACT is selective catalytic reduction (SCR), and that ADEC's decision in the proposed permit therefore is both arbitrary and erroneous. The State's analysis as reflected in both the preliminary and final technical analysis reports indicates that SCR is technically feasible. Furthermore, contrary to ADEC's final conclusions, the State's record reflects that the cost-effectiveness and the collateral issues of energy, environmental, or economic impacts, and other costs, do not justify failure to select SCR as BACT in this case. EPA does not believe that the cost-effectiveness analysis in the final technical analysis report demonstrates that the installation of SCR is economically infeasible. These costs are well within the range of costs EPA has seen permitting authorities nationwide accept as economically feasible for NOx control, except where there are compelling site-specific factors that indicate otherwise. Additionally, in the preliminary technical analysis report, p. 41, ADEC indicated the costs for SCR were "well within" what ADEC considers economically feasible. ADEC's record simply does not support its decision that BACT for MG-5 or MG-17 is low NOx controls rather than SCR.

In an effort to resolve the issue regarding BACT for MG-17, we are willing to continue discussions with ADEC and Cominco. In this vein I suggest that the three parties agree to utilize a third-party to facilitate non-binding negotiations. We are available to review and consider any additional information or analyses provided by ADEC or Cominco to support a determination that SCR is not BACT for modified or new Wartsila generators at the Red Dog mine facility. Utilizing a facilitator would not limit or restrict EPA's, ADEC's, or Cominco's authority, or defenses currently available to any of us, under existing law or regulation, but may provide a useful forum for continued negotiation on this issue. Furthermore, according to communications with Cominco, the new Wartsila generator MG-17 will not be on-site until next summer and NOx controls may be ordered and installed after shipping. Thus, Cominco's scheduling should not be significantly affected by the additional time needed to resolve this issue.

I recognize that it may take some time to resolve the disputed issues regarding this permit. Therefore, consistent with EPA's federal oversight role and to preserve EPA's authority during any additional negotiations regarding the Cominco permit, the enclosed Finding of Noncompliance and Order is issued.

Please call Douglas Hardesty, Office of Air Quality (206-553-6641) or me (206-553-0479), at your earliest convenience to discuss how you would like to proceed, and/or to begin scheduling and arrangements for a facilitator. Additionally, I encourage you to call either of us if you have questions regarding the enclosed Finding of Noncompliance and Order.

Sincerely,



Chuck Findley

Deputy Regional Administrator

Enclosure

cc: John Keys, Cominco

Therefore, consistent with EPA's federal oversight role and to preserve EPA's authority during any additional negotiations regarding the Cominco permit, the enclosed Finding of Noncompliance and Order is issued.

Please call Barbara McAllister, Director, Office of Air Quality (206-553-2963) or me (206-553-0479), at your earliest convenience to discuss how you would like to proceed, and/or to begin scheduling and arrangements for a facilitator. Additionally, I encourage you to call either of us if you have questions regarding the enclosed Finding of Noncompliance and Order.

Sincerely,

Chuck Findley
Deputy Regional Administrator

cc:

John Keys, Cominco

Bcc: Chuck Findley
Carol Holmes, OECA
Greg Foote, OGC
Karen Blanchard, OAQPS
Ray Nye, OAQ
John Keenan, OAQ
Rob Wilson, OEA
Julie Matthews, ORC
Source file

Doug Hurlburt, OAQ

Cominco Alaska, Inc

Z 219 892 432

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410 WILLOUGHBY AVE, SUITE 105	
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JUNEAU, AK 99801-1795	
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MICHELE BROWN
AK DEPT OF ENVIRONMENTAL
CONSERVATION
410 WILLOUGHBY AVE, SUITE 105
JUNEAU, AK 99801-1795

4a. Article Number

Z 219 892 432

4b. Service Type

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12/13/99

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Cominco Alaska, Inc.

PS Form 3811, December 1994

102595-97-8-0179

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Cominco Alaska Inc

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COMINCO ALASKA INC	
P.O. BOX 1230	
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KOTZEBUE, AK 99752	
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3. Article Addressed to:

JOHN KEYS
PRESIDENT
COMINCO ALASKA INC
P.O. BOX 1230
KOTZEBUE, AK 99752

4a. Article Number

Z 219 892 411

4b. Service Type

- ☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery

5. Received By: (Print Name)

6. Signature: (Addressee or Agent)

X *[Signature]*

8. Addressee's Address (Only if requested and fee is paid)

PS Form 3811, December 1994

102595-97-8-0179

Domestic Return Receipt

PS Form 3800, April 1995

COM 1-004

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

State of Alaska Department of
Environmental Conservation,

Proceeding under Sections 113(a)(5)
and 167 of the Clean Air Act.

Docket No. CAA-10-99-0263

FINDING OF NONCOMPLIANCE
and ORDER

(42 U.S.C. §§ 7413 and 7477)

I. FINDING OF NONCOMPLIANCE and ORDER

1. This Finding of Noncompliance and Order is issued by the Regional Administrator, Region 10, United States Environmental Protection Agency (EPA), to the State of Alaska, Department of Environmental Conservation (ADEC), pursuant to Sections 113(a)(5) and 167 of the Clean Air Act (CAA or Act), 42 U.S.C. §§ 7413 (a)(5) and 7477.

2. The authority of the Administrator of EPA to issue findings and orders pursuant to Section 113(a)(5) and Section 167 of the Act, 42 U.S.C. §§ 7413(a)(5) and 7477, has been delegated to the Regional Administrator. The Regional Administrator has consulted with the Assistant Administrator for the Office of Enforcement and Compliance Assurance pursuant to the delegation of authority from the Administrator.

II. STATUTORY AND REGULATORY AUTHORITY

3. The Administrator of EPA, pursuant to Section 109 of the Act, 42 U.S.C. § 7409, promulgated National Primary and Secondary Ambient Air Quality Standards (NAAQS) for certain criteria pollutants, including nitrogen dioxide (NO₂). 40 C.F.R. §§ 50.4 to 50.12.

4. Pursuant to Section 107(d) of the Act, 42 U.S.C. § 7407(d), the Administrator promulgates lists of attainment status designations for each air quality control region (AQCR) in every State. These lists contain the attainment status of each AQCR for each of the criteria pollutants. The attainment status designations for the Alaska AQCRs appear at 40 C.F.R. § 81.302.

5. Cominco Alaska, Inc. (Cominco) owns and operates the Red Dog mine facility, a surface zinc and lead ore mining operation, which is located in the Northern Alaska Interstate AQCR and is in an area that is in attainment or unclassifiable with respect to the NAAQS. 40 C.F.R. § 81.302.

6. Part C of the Act, 42 U.S.C. §§ 7470-7492, requires the Administrator to promulgate regulations for prevention of significant deterioration (PSD) of air quality in areas designated in accordance with Section 107(d) of the Act, 42 U.S.C. § 7407(d), as in attainment or unclassifiable.

7. Pursuant to Sections 110 and 165(e)(3) of the Act, 42 U.S.C. §§ 7410 and 7471(e)(3), EPA promulgated two sets of largely identical regulations for preventing the significant deterioration of air quality in areas where the existing air quality is better than the ambient standards. In States without a PSD program and in those States where EPA has delegated authority to administer the federal PSD program to the State, the federal PSD regulations at 40 C.F.R. § 51.21 have been incorporated into the various State Implementation Plans (SIPs) of such States. In the remaining States, EPA has approved as part of the SIP a State PSD program, implemented directly by the State, as meeting the requirements of Part C of the Act and the PSD regulations at 40 C.F.R. § 51.166.

8. EPA has approved 18 AAC 50.020, 50.021, 50.300, 50.400, 50.510, 50.520, 50.530, 50.600, 50.620, and 50.900, as in effect on June 2, 1988, as a revision to the Alaska SIP and as meeting the requirements of Part C of the Act and the PSD regulations at 40 C.F.R. § 51.166 for preventing the significant deterioration of air quality. See 40 C.F.R. § 52.96(a). (48 Fed. Reg. 30626, July 5, 1983, and subsequent amendments.) References in this document to Alaska statutory or regulatory provisions are to the current SIP-approved versions of the statute or regulation.

9. Section 165 of the Act, 42 U.S.C. § 7475, prohibits the construction of a major

emitting facility in any area subject to the requirements of Part C of the Act and the PSD regulations unless, among other things, a permit has been issued for the proposed facility in accordance with Part C of the Act which sets forth emission limitations that conform to the requirements of Part C, and the proposed facility is subject to best available control technology (BACT) for each pollutant subject to regulation under Title I of the Act that is emitted from or which results from such facility.

10. "Ambient air" is defined at Alaska Statutes 46.14.99(2)(1993) as "that portion of the atmosphere, external to buildings, to which the general public has access."

11. "Actual emissions" as defined in 18 AAC 50.900(1)(1991) means "for each air contaminant, the average rate in tons per year that a facility actually emitted during the most recent two years of normal operation; the department will, in its discretion, consider facility-specific allowable emissions to be actual emissions of an air contaminant."

12. "Construct" as defined in 18 AAC 50.900(13)(1991) means "to make a change or a series of changes in operation or any physical changes or additions to a source which increase the actual emissions of an air pollutant."

13. "Allowable emissions" as defined in 18 AAC 50.900(4)(1991) means "the calculated emission rate of a source or facility using the maximum rated capacity and enforceable limitations and conditions on emissions and operations."

14. "Modify" as defined in 18 AAC 50.900 (28)(1991) means "to make a change or a series of changes in operation or any physical changes or additions to a source which increase the actual emissions of an air pollutant."

15. 18 AAC 50.300(a)(1991) states that no person may construct, modify, reconstruct, operate, or cause the operation of a facility meeting the criteria in that subsection without a permit from ADEC. The list of facilities covered by 18 AAC 50.300(a) includes a facility which has allowable emissions of more than 250 tons per year of a regulated air contaminant and which is modified after August 7, 1980, or after the date of the most recent permit issued to the facility under 18 AAC 50.400(c)(3), causing an increase in actual emissions equal to or exceeding any of the

thresholds identified in that subsection.

16. A permit application for a facility subject to 18 AAC 50.300(a)(5) or (6) must include, among other things, a detailed demonstration that the expected maximum emissions from the facility will not cause or contribute to a violation of an ambient air standard or allowable increment in 18 AAC 50.020(b).

17. 18 AAC 50.400(c)(3)(A)(1991) states that ADEC will issue a permit only if the applicant shows that, for a facility subject to 18 AAC 50.300(a)(5) or (6), BACT for controlling emissions of each regulated pollutant will be installed for each new or modified source.

18. 18 AAC 50.900(9)(1991) defines "best available control technology" as an emission limitation which represents the maximum reduction achievable for each regulated air pollutant taking into account energy, environmental, and economic impacts, and other costs.

19. Section 113(a)(5) of the Act, 42 U.S.C. § 7413(a)(5) provides:

Whenever, on the basis of any available information, the Administrator finds that a State is not acting in compliance with any requirement or prohibition of the [Act] relating to the construction of new sources or the modification of existing sources, the Administrator may -

(A) issue an order prohibiting the construction or modification of any major stationary source in any area to which such requirement applies;

(B) issue an administrative penalty order in accordance with subsection (d) of this section; or

(C) bring a civil action under subsection (b) of this section.

Nothing in this subsection shall preclude the United States from commencing a criminal action under subsection (c) of this section at any time for any such violation.

20. Section 167 of the Act, 42 U.S.C. § 7477, provides that the Administrator shall take such measures, including issuance of an order, as necessary to prevent the construction or modification of a major emitting facility which does not conform to the requirements of Part C of the Act.

21. Section 169(1) of the Act, 42 U.S.C. § 7479(1), defines a major emitting facility, in pertinent part, as a stationary source which emits or has the potential to emit 250 tons per year or more of any air pollutant.

22. A State does not conform to the requirements of Part C of the Act if, among other things, it allows a major emitting facility to commence construction or modification prior to receipt of a PSD permit or issues a PSD permit to a facility without subjecting the facility to BACT for each pollutant subject to regulation under Title I of the Act that is emitted from or which results from such facility.

23. A major emitting facility does not conform to the requirements of Part C if, among other things, it commences construction or modification prior to receipt of a PSD permit or if the facility is not subject to BACT for each pollutant subject to regulation under Title I of the Act that is emitted from or which results from such facility.

III. FINDINGS OF FACT

24. On June 17, 1988, ADEC issued a PSD permit, Permit No. 8732-AA001, that authorized the construction of the Red Dog mine facility, including the installation of five Wartsila diesel generators (MG-1, MG-2, MG-3, MG-4, and MG-5).

25. ADEC revised and replaced the June 1988 PSD permit on several occasions, including a revision dated July 27, 1994, Permit No. 9332-AA003, which: (a) removed from the permit a NOx BACT limit of 750 parts per million volume dried (ppmvd) that applied to the five Wartsila diesel generators, and substituted a limit of 109,660,000 kilowatt hours per continuous 365-day period (kW-hr/yr) for MG-1, MG-3, MG-4, and MG-5, (b) removed the stand-by limits on MG-2 and permitted it to operate full-time, and (c) authorized the installation and full-time operation of a sixth Wartsila diesel generator (MG-6).

26. The Red Dog mine facility currently operates under the terms and conditions of Permit No. 9332-AA003, as amended December 4, 1996.

27. On March 27, 1996, prior to receiving an amended PSD permit, Cominco requested that ADEC allow Cominco to make on-site preparations for changes to the facility that would allow for production increases. On April 2, 1996, ADEC granted Cominco a waiver to allow the company to conduct specified procurement and construction activities on the condition that Cominco prepare

and submit a request for a permit amendment concurrent with the activities.

28. Between April 1996 and May 1998, Cominco constructed a new gyratory crusher at the Red Dog mine facility without a permit.

29. On June 29, 1998, Cominco submitted a PSD permit application to ADEC for what it referred to as a "production rate increase project" that was expected to increase the mine's ore processing rate from approximately 2,200,000 tons per year to 3,500,000 tons per year and to increase the production of zinc and lead concentrate from 854,000 tons per year to 1,400,000 tons per year. Cominco submitted a supplement to the application to ADEC on April 6, 1999. As part of the production rate increase project, Cominco requested that ADEC, among other things, remove the air quality operating restrictions on the four Wartsila diesel generators that were installed in 1988 and which still had operational limits on them (MG-1, MG-3, MG-4, MG- 5), "add" a seventh Wartsila diesel generator (MG-17), "add" the new gyratory crusher that Cominco had already installed, and approve the addition of other equipment and changes necessary to support the production rate increase project.

30. On May 4, 1999, ADEC issued a preliminary PSD permit (preliminary draft PSD permit) for the production rate increase project for review and public comment. The preliminary draft PSD permit proposed to remove the operational cap of 109,660,000 kW-hr/year that applied to Wartsila diesel generators MG-1, MG-3, MG-4, and MG-5, to "add" the seventh Wartsila diesel generator (MG-17), to "add" the new gyrator crusher, and to approve the addition of other equipment and changes that Cominco requested in its PSD permit application for the production rate increase project.

31. ADEC prepared a preliminary technical analysis report (Preliminary Technical Report) to accompany the preliminary draft PSD permit. The Preliminary Technical Report stated that the production rate increase project is expected to increase actual NO_x emissions by up to 1,100 tons per year; carbon monoxide (CO) emissions by 90 tons per year; particulate matter (PM) emissions by 35 tons per year; PM emissions less than 10 micrometers in diameter (PM-10) by 35

tons per year; volatile organic compound (VOC) emissions by 59 tons per year; and lead (Pb) emissions by 0.046 tons per year. The proposed production rate increase project is expected to reduce sulfur dioxide (SO₂) emissions by 37 tons per year.

32. In the preliminary draft PSD permit and Preliminary Technical Report, ADEC concluded that, of the seven Wartsila diesel generators, only MG-5 and MG-17 were subject to PSD requirements and therefore required BACT. EPA regulations require that technical and economic feasibility be considered when determining BACT. In the Preliminary Technical Report ADEC determined that Selective Catalytic Reduction (SCR) is a technically and economically feasible emission control technology for the Wartsila generators and that SCR could result in reductions of 712 tons per year of NO_x for each Wartsila diesel generator. The Preliminary Technical Report also concluded that installation of low NO_x controls would result in reductions of only 273 tons per year of NO_x for each Wartsila diesel generator. The Preliminary Technical Report then concluded that BACT for MG-5 and MG-17 was an emission limit based on low NO_x controls.

33. The Red Dog mine facility was at the time of construction and continues to be a "major emitting facility" under Section 169(1) of the Act, 42 U.S.C. § 7479(1).

34. The Red Dog mine facility was at the time of construction and continues to be a facility with allowable emissions, as defined in 18 AAC 50.900(4), of at least 250 tons per year of a regulated air contaminant. The Red Dog mine facility is therefore a "facility," as listed in 18 AAC 50.300(a)(6).

35. The production rate increase project will "modify," as that term is defined in 18 AAC 50.900(28), the Red Dog mine facility.

36. The production rate increase project will increase actual emissions of NO_x, PM, PM-10, and VOC from the Red Dog mine facility by more than the thresholds identified in 18 AAC 50.300(a)(6)(C) and will occur after 1980 and after the date of the most recent permit issued for the Red Dog mine under 18 AAC 50.400(c)(3). The Red Dog mine facility and production rate increase project are therefore a "facility," as listed in 18 AAC 50.300(a)(6)(C).

37. The public comment period on the preliminary draft PSD permit for the production rate increase project ended on June 2, 1999.

38. On June 2, 1999, the United States Department of the Interior, National Park Service (NPS), submitted comments on the preliminary draft PSD permit for the production rate increase project. The NPS comments raised several concerns with the preliminary draft PSD permit, including the following:

a. ADEC failed to subject four of the Wartsila diesel generators (MG-1 and MG-3 through MG-5) to PSD, including BACT. These generators are part of the production rate increase project because the preliminary draft PSD permit would remove an operating restriction on these generators.

b. ADEC failed to require SCR on the two Wartsila diesel generators which ADEC acknowledges are subject to BACT (MG-5 and MG-17). SCR is BACT for the Wartsila diesel generators.

39. By letter dated July 29, 1999, EPA informed ADEC that it agreed with NPS's comments and had concluded that:

a. The Wartsila diesel generators MG-1 and MG-3 through MG-5 are subject to PSD, including BACT, because these generators are part of the production rate increase project since the preliminary draft PSD permit would remove the existing operating restriction on these generators.

b. Based on ADEC's preliminary Technical Report that accompanied the preliminary draft PSD permit, SCR is BACT for the Wartsila diesel generators MG-1, MG-3, MG-4, MG-5, and MG-17.

40. On September 3, 1999, ADEC provided to EPA a final draft permit No. 9932-AC005 for the Cominco Red Dog mine facility. The final draft permit was accompanied by a Final Technical Analysis Report (Final Technical Report) and Response to Comment document.

41. The Final Technical Report concluded that an emission rate achievable with low NOx

controls to be BACT on Wartsila diesel generators MG-5 and MG-17. The final draft PSD permit includes an emission rate limit of 121.3 lb/hour on MG-5 and MG-17 based on low NOx controls.

42. The final draft PSD permit does not require the installation of BACT on MG-1, MG-3, and MG-4, but instead only proposes to reinstate the same limit on total annual emissions from MG-1, MG-3, and MG-4 which previously applied to total annual emissions from MG-1 through MG-5. This limit is listed in the final draft PSD permit as:

- (1) 2259 tons NOx/year from MG-1, MG-3, and MG-4; and
- (2) 750 ppm NOx corrected to 7% oxygen from each unit.

43. Neither the Final Technical Report nor the final draft PSD permit clearly identify or delineate the ambient air boundary for the Cominco Red Dog mine facility.

44. The Public Control Access Plan in final draft PSD permit Section 19 provides that public access to the mine site ambient air boundary is limited by sign postings placed along corridors of potential public access, specifically, at the main entrance to the operation on the southern boundary along the haul road, along Red Dog Creek, and at three sites around the boundary where the terrain may possibly accommodate public access.

45. On September 15, 1999, EPA notified ADEC by letter that the final draft PSD permit was deficient and that issuance of the permit as proposed in the September 3, 1999, final draft PSD permit would not comply with the Clean Air Act or the Alaska SIP requirements relating to the construction or modification of new sources or modification of existing sources, if issued as drafted.

IV. FINDING OF NONCOMPLIANCE

46. Based on investigation and analysis of all relevant facts and documentation provided by Cominco and ADEC, pursuant to Section 113(a)(5) of the Clean Air Act, 42 U.S.C. § 7413(a)(5), EPA finds that:

- a. The April 2, 1996, ADEC authorization of Cominco's construction and installation of new equipment, including the new gyratory crusher, at the Red Dog mine facility prior to Cominco's receipt of a PSD permit allowing construction of such equipment did not comply

with the requirements or prohibitions of the Clean Air Act and/or the Alaska SIP relating to the construction or modification of new sources or the modification of existing sources.

b. Neither the preliminary draft PSD permit nor the final draft PSD permit complies with the requirements or prohibitions of the Clean Air Act or the Alaska SIP relating to the construction or modification of new sources or the modification of existing sources.

Furthermore, issuance of a final PSD permit as proposed in the preliminary draft PSD permit or final draft PSD permit would not be in compliance with requirements or prohibitions of the Clean Air Act and/or the Alaska SIP relating to the construction or modification of new sources or the modification of existing sources.

c. The construction or major modification of the Red Dog mine facility without a valid PSD permit violates Section 165(a) of the Act, 42 U.S.C. § 7475(a). Consequently, the issuance of this Order, pursuant to Section 167 of the Act, 42 U.S.C. § 7477, is necessary to prevent any further construction or modification at the Red Dog mine facility.

V. ORDER

47. Based on investigation and analysis of all relevant facts, including any good faith efforts to comply, and pursuant to Section 167 of the Act, 42 U.S.C. § 7477, effective immediately upon issuance:

a. ADEC is prohibited from issuing a PSD permit to Cominco's Red Dog mine facility allowing the construction or modification of the facility and designating low NOx controls (or less effective controls) as BACT for Wartsila diesel generator MG-17, unless ADEC satisfactorily documents why SCR is not BACT for the Wartsila diesel generator at the Red Dog mine facility, or ADEC has demonstrated that the PSD permit is in compliance with the prevention of significant deterioration provisions of Part C of the Act, 42 U.S.C. §§ 7470-7492, and the Alaska SIP relating to the construction or modification of new sources or the modification of existing sources. In either case, ADEC must first obtain EPA's written concurrence on this determination.


b. Prior to issuance of a PSD permit to Cominco for Wartsila diesel generators MG-1, MG-3, MG-4, or MG-5, ADEC is ordered to either include emission limits for MG-1, MG-3, MG-4, and MG-5 that reflect the previous "bubble" limits and result in no increase in actual or allowable emissions from these engines, include NOx emission limits based on SCR, or satisfactorily document why SCR is not BACT for the Wartsila diesel generators at the Red Dog mine facility and to obtain EPA's written concurrence of this determination.

c. In the event ADEC has already issued or released the permit, ADEC is ordered to retract or render it ineffective until such time as EPA provides written concurrence that the permit is in compliance with the prevention of significant deterioration provisions of Part C of the Act, 42 U.S.C. §§ 7470-7492, and the Alaska SIP relating to the construction or modification of new sources or the modification of existing sources.

48. Such documentation shall be submitted by certified mail with return receipt requested to:

Douglas E. Hardesty
Office of Air Quality
U.S. Environmental Protection Agency
1200 Sixth Ave, OAQ-107
Seattle, WA 98101

Issued this 10 day of Dec, 1999.


Chuck Clarke
Regional Administrator
Region 10

CERTIFICATE OF SERVICE

I certify that the forgoing Finding of Noncompliance and Order was sent to the following persons, in the manner specified, on the date below:

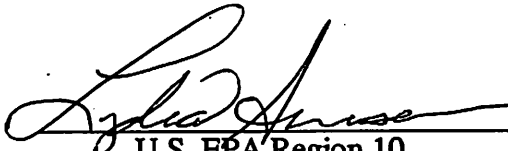
Original by overnight, certified mail, return receipt requested and Fax:

Michele Brown,
Alaska Department of Environmental Conservation
410 Willoughby Avenue, Suite 105
Juneau, Alaska 99801-1795

Copy by overnight, certified mail, return receipt requested:

John Key
President
Cominco Alaska Inc.
P.O. Box 1230
Kotzebue, Alaska 99752

Dated: 12/10/99


U.S. EPA Region 10